

1 _____ BILL NO. _____
2 INTRODUCED BY _____
3 (Primary Sponsor)
4 BY REQUEST OF THE BOARD OF LIVESTOCK

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING INDEMNITY LAWS FOR LIVESTOCK
6 DESTROYED DUE TO DISEASE; PROVIDING FOR COMPENSATION ESTABLISHED BY THE
7 DEPARTMENT OF LIVESTOCK; ESTABLISHING AN INDEMNITY ACCOUNT; PROVIDING FOR THE USE
8 OF PER CAPITA FEES TO FUND COMPENSATION COSTS; REQUIRING PER CAPITA FEE PAYMENT AS
9 A CRITERIA FOR COMPENSATION; PROVIDING A STATUTORY APPROPRIATION; GRANTING THE
10 DEPARTMENT RULEMAKING AUTHORITY; PROVIDING RULEMAKING AUTHORITY; AMENDING
11 SECTIONS 15-24-925, 17-7-502, 81-2-209, AND 81-2-210, MCA; REPEALING SECTIONS 81-2-201, 81-2-
12 202, 81-2-203, 81-2-204, 81-2-205, 81-2-206, 81-2-207, AND 81-2-208, MCA; AND PROVIDING AN
13 EFFECTIVE DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
17 NEW SECTION. **Section 1. Classification of animals -- compensation for indemnity --**
18 **rulemaking.** (1) Animals slaughtered under the direction of the department due to disease and by order of the
19 board may be eligible for indemnity not to exceed \$5,000 per animal or the balance of the indemnity account
20 established in [section 3] for a herd.
21 (2) Eligible animals include:
22 (a) cattle;
23 (b) domestic bison;
24 (c) sheep;
25 (d) goats;
26 (e) swine;
27 (f) alternative livestock; and
28 (g) poultry.

(3) Diseases for which animals are eligible for indemnity include:

(a) foreign animal diseases as classified by the U.S. department of agriculture;

(b) bovine tuberculosis;

(c) brucellosis; and

(d) chronic wasting disease.

(4) Animals that are injured or killed while being inspected or tested under an order of the department or its agent may be paid for at their full appraised value in accordance with rules established by the department.

Payment may not exceed \$5,000 per animal or the balance of the indemnity account as established in [section 3] for a herd. The board must meet and recommend payment of a claim for the animals when it is shown that the injury or death of the animals was not proximately due to the negligence of the owner or the owner's agent.

(5) The department shall adopt rules to implement [sections 1 through 3], 81-2-209, and 81-2-210.

Rules must include but are not limited to an appraisal process to establish full value for an animal for the purposes of compensation.

NEW SECTION. Section 2. Presentation of claims for indemnity -- sale of condemned

carcasses. (1) Claims against the state that arise from the destruction of animals or property by order of the department must contain an affidavit by the owner or the owner's agent with knowledge of the animal or property, certifying the ownership of the animal or property, and that the animal or property has been destroyed in accordance with this chapter and rules adopted by the department. The claims must be accompanied by an appraisal based on rules established by the department in accordance with [section 1(5)] together with an account of sale showing the net proceeds from the sale of the animal, if any, paid to the owner of the animal.

(2) When the carcass of an animal ordered destroyed under [sections 1 through 3], 81-2-209, and 81-2-210 is found on official postmortem inspection to be fit for human consumption, the owner must receive the net proceeds from the sale of the carcass. The proceeds must be deducted from the owner's claim against the state for the slaughter.

NEW SECTION. Section 3. Indemnity account. (1) There is an indemnity special revenue account

administered by the department within the state special revenue fund established in 17-2-102.

(2) Money from per capita fees is transferred to the account pursuant to 15-24-925(4) for the purpose of compensation for indemnity as provided in [sections 1 and 2], 81-2-209, and 81-2-210. The department is not required to spend all money allocated to this account by the end of each fiscal year.

(3) The indemnity special revenue account is statutorily appropriated, as provided in 17-7-502, to the department for the purpose of compensation for indemnity as provided in [sections 1 and 2], 81-2-209, and 81-2-210.

Section 4. Section 15-24-925, MCA, is amended to read:

"15-24-925. (Temporary) Reimbursement to department -- transmission of fees to state. (1) The department may withhold 2% of the money received under 15-24-921 as reimbursement for the collection of the fee on livestock unless a different percentage of money to be withheld is mutually agreed upon by the department and the department of livestock on an annual basis.

(2) The department shall designate the amount received from the fee imposed on sheep and the amount received from the fee imposed on all other livestock and shall specify the separate amounts in the report to the department of livestock. The money, when received by the department, must be deposited in an account in the special revenue fund to the credit of the department of livestock. The money in the account must be kept separate from other funds received by the department of livestock. Interest earned on money in the account must be deposited in the account.

(3) At least \$350,000 must be transferred from the state special revenue account in subsection (2) to the predatory animal special revenue account provided for in 81-7-106 in each fiscal year.

(4) (a) Except as provided in subsection (4)(b), the amount of \$10,000 is transferred from the state special revenue account provided for in subsection (2) to the indemnity special revenue account provided for in [section 3] each fiscal year.

(b) The transfer established in subsection (4)(a) is required only if the fund balance in the indemnity special revenue account provided for in [section 3] is less than \$100,000. (Terminates June 30, 2023--sec. 8, Ch. 284, L. 2017.)

15-24-925. (Effective July 1, 2023) Reimbursement to department -- transmission of fees to state. (1) The department may withhold 2% of the money received under 15-24-921 as reimbursement for the

collection of the fee on livestock unless a different percentage of money to be withheld is mutually agreed upon by the department and the department of livestock on an annual basis.

(2) The department shall designate the amount received from the fee imposed on sheep and the amount received from the fee imposed on all other livestock and shall specify the separate amounts in the report to the department of livestock. The money, when received by the department, must be deposited in an account in the special revenue fund to the credit of the department of livestock. The money in the account must be kept separate from other funds received by the department of livestock. Interest earned on money in the account must be deposited in the account.

(3) The amount of \$350,000 is transferred from the state special revenue account in subsection (2) to the predatory animal special revenue account provided for in 81-7-106 in each fiscal year.

(4) (a) Except as provided in subsection (4)(b), the amount of \$10,000 is transferred from the state special revenue account in subsection (2) to the indemnity special revenue account provided for in [section 3] each fiscal year.

(b) The transfer established in subsection (4)(a) is only required if the fund balance in the indemnity special revenue account provided for in [section 3] is less than \$100,000."

Section 5. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-31-1004; 15-31-1005; 15-35-108;

1 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-
 2 106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410;
 3 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-
 4 107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-
 5 105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-
 6 503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-
 7 108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-
 8 214; 75-11-313; 75-26-308; 76-13-151; 76-13-150; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-
 9 416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; section 3; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-
 10 526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

11 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 12 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 13 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
 14 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined
 15 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
 16 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
 17 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
 18 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
 19 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
 20 benefit provided by 19-6-709; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion
 21 of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115
 22 terminates June 30, 2021; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
 23 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
 24 terminates June 30, 2025; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates
 25 December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023;
 26 pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to
 27 sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L.
 28 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the

inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; and pursuant to sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023.)"

Section 6. Section 81-2-209, MCA, is amended to read:

"81-2-209. When no indemnity. (1) The owner of an animal or property destroyed under this chapter is entitled to indemnity, except in the following cases:

- (a) animals belonging to the United States;
- (b) animals brought into this state that violate this chapter or rules of the department;
- (c) animals that the owner or claimant knew to be diseased or had notice of the disease at the time they came into the owner's or claimant's possession;
- (d) animals that had the disease for which they were slaughtered or that were destroyed because of exposure to the disease at the time of their arrival in this state; ~~However, a class 2 animal shipped into this state under department rules and accompanied by the proper certificate of health from a recognized state or federal veterinarian may be paid for when payment is authorized by the department.~~
- (e) animals that have not been in this state for at least 120 days before the discovery of the disease; ~~However, class 2 animals that have not been in the state for 120 days may be paid for when payment is authorized by the department.~~
- (f) when the owner or agent has not used reasonable diligence to prevent disease or exposure to disease;
- (g) when the owner or agent has not complied with the rules of the department with respect to animals condemned;
- (h) when animals condemned are not destroyed within 60 days after they are determined to be affected with or exposed to a disease that requires them to be destroyed by order of the department; or

(i) if a livestock producer has not paid per capita fees as required by 15-24-921, unless the producer is a tribal member or a tribal entity.

(2) Compensation or indemnity will not be paid for the destruction of livestock affected with tuberculosis or other infectious, contagious, communicable, or dangerous disease unless the entire herd or band of affected livestock is under the supervision of the department for the eradication of the disease."

Section 7. Section 81-2-210, MCA, is amended to read:

"81-2-210. Compensation from federal government or other agency. (1) If the federal government or an agency other than the state ~~or county~~ compensates the owner for livestock or property destroyed by order of the department, the amount of the compensation from the federal government or other agency shall be deducted from the owner's claim as filed against the state ~~and county~~, that is, from the balance that remains after the net salvage price received from the sale or other disposal of the condemned animal has been deducted from the appraised value.

(2) If the owner or agent of the livestock or property destroyed by order of the department forfeits an indemnity, which the owner would otherwise be entitled to from the federal government or compensating agency other than the state ~~or county~~, by violation of the rules of the federal government or other agency, an amount equal to the indemnity which would have been paid by the federal government or other indemnifying agency but for the forfeiture shall also be deducted from the owner's claim; that is, the balance that remains after the net salvage price received from the sale or other disposal of the condemned animal has been deducted from the appraised value."

NEW SECTION. Section 8. Repealer. The following sections of the Montana Code Annotated are repealed:

81-2-201. Classification of animals as to compensation for slaughter.

81-2-202. Payment for other personal property.

81-2-203. Indemnity -- from what funds paid.

81-2-204. Presentation of claims for indemnity.

81-2-205. Indemnity for class 2 animals in state less than 120 days.

- 1 81-2-206. Verification and payment of claims.
- 2 81-2-207. Payment from county funds.
- 3 81-2-208. Sale of condemned carcasses -- disposition of proceeds.

4

5 NEW SECTION. **Section 9. Notification to tribal governments.** The secretary of state shall send a

6 copy of [this act] to each federally recognized tribal government in Montana.

7

8 NEW SECTION. **Section 10. Codification instruction.** [Sections 1 through 3] are intended to be

9 codified as an integral part of Title 81, chapter 2, part 2, and the provisions of Title 81, chapter 2, part 2, apply

10 to [sections 1 through 3].

11

12 NEW SECTION. **Section 11. Saving clause.** [This act] does not affect rights and duties that

13 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

14

15 NEW SECTION. **Section 12. Effective date.** [This act] is effective July 1, 2021.

16 - END -